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REMARKS

The comments of the applicant below are each preceded by related comments of the examiner (in small, bold type).

This action is in response to Amendment received April 22, 2004, Claims 51-61 have been newly added. Claims 1-5, 11-15, 21-25 31-61 are pending in the present application.

Continued Examination Under 37CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under Ex Parte Quayle, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on April 22, 2004 has been entered.

Claim Objections

Claim 52, 55 and 60 objected to because of they depend on cancelled claims 7, 16 and 27, respectively, Appropriate correction is required.

Amendments have been made.

Claim Rejections -35 USC §103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained thougb the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prier art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject mater pertains. Patentability shall not be negatived by the manner in which the invention was made-

Claims 1-5, 11-15,.21-25,31-38, 40-44, 46-49, 51, 54,55,58 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haggard et al, in view of USPN 6,317,787 issued to Boyd et al.

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Regarding claims 1, 11, and 21, Haggard et al, teach a method
(claim 1), a system (claim 11), and a computer program (claim 21)
for real-time measurement of the performance of communications
on a large area network between a selected server and a plurality
of users, based upon actual user experience, including:

accessing a server log having records of actual user access to the
selected server (Abstract);

Haggard neither describes nor suggests that records of a server log that are accessed are
"indicative of <u>routings through a network</u> of actual user access," as recited in claim 1. In the
examiner's office action of October 23, 2003, on page 3, item 5, the examiner acknowledges that
Haggard does not teach accessing a server log having records indicative of routings of actual
user access to the selected server. The examiner, however cites Boyd as disclosing this feature
in table 1 in col. 4, line 51.

Table 1 of Boyd lists summaries that are built from analyzing traffic data to a website;
however, table 1 does not include records indicative of routings through a network of actual user
access. Although, the fourth entry in the second column of Table 1 includes a summary of "Top
Paths Through Site," this entry is nowhere disclosed or suggested to be indicative of routings
<u>through a network</u> of actual user access. For example, a path through a site could be a sequence
of a user's visits to web pages within a website that are hosted on the same server. In this
example, the path has nothing to do with routings through a network because the user may visit
the web pages without leaving the server.

Although Boyd does not explicitly define a path as being a sequence of visits to web
pages within a website, Boyd discloses tracking a user's visits to specific web pages: "the
analysis results can be used for automatically producing reports and summaries showing ... user
activity by ... interest level in specific web pages ...(col. 4, line 64 – col. 5, line1)." Boyd,
however, leaves no hint as to whether a path could refer to routings through a network.

Although Boyd describes redirecting traffic hits to other servers in col. 6, lines 23-41,
Boyd neither discloses nor suggests that the redirection of a traffic hit is recorded and accessible

from a server log. Rather, Boyd simply states that traffic hits intended for a server hosting a website are distributed to other servers that mirror the website. Therefore, even if Haggard were combined with Boyd, their combination would not yield the present invention as recited in claim 1.

...

> **Regarding claims 2, 12, and 22, Haggard et al. fail to teach the method of claim 1 the system of claim 11, and the computer program of claim 21, further including filtering out selected records from the server log before the step of aggregating. Boyd et al. teach filtering out selected records from the server log (figures 6 and 7, no. 64). At the time the invention was made, it would have been obvious to one of ordinary skill in the art to filter out selected records from the sewer before the step of aggregating in order to remove unwanted records that will not be analyzed, thus improving the speed in making performance analysis.**

The applicant respectfully disagrees. Boyd neither discloses nor suggests filtering out selected records from the server log before the step of aggregating. Rather, in FIGS. 6-8 and accompanying text in col. 6, line 57 to col. 8, line 7, Boyd describes sorting hits to provide a chronological listing of hits according to the time that the hits were generated. Sorting is not the same as filtering. Nowhere, does Boyd disclose or suggest filtering out selected hits from the server log, much less filtering out selected hits before aggregating the hits.

> **Regarding claims 3, 13, and 23 ...**
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> **Regarding claims 4, 14, and 24 ...**
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> **Regarding claims 5 15, and 25 ...**
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> **Regarding claim 31 ...**
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> **Regarding claims 32, 40, and 46 ...**
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> **Regarding claims 33 and 41 ...**
>
> **Regarding claims 34, 42 and 47 ...**
>
> **Regarding claim 35 ...**
>
> **Regarding claim 36 ...**

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Regarding claims 37, 43 and 48 ...

Regarding claims 38, 44 and 49 ...

(New) Regarding claims 51, 55, and 59 ...

(New) Regarding claims 54 and 58 ...

Claims 39, 45, 50, 53, 57 and 61 ...

Regarding claims 39, 45 and 50 ...

Regarding claims 53, 57, and 61...

(New) Regarding claims 52,56 and 60 ...

All of the dependent claims are patentable for at least the reasons for which the claims on which they depend are patentable.

Canceled claims, if any, have been canceled without prejudice or disclaimer.

Any circumstance in which the applicant has (a) addressed certain comments of the examiner does not mean that the applicant concedes other comments of the examiner, (b) made arguments for the patentability of some claims does not mean that there are not other good reasons for patentability of those claims and other claims, or (c) amended or canceled a claim does not mean that the applicant concedes any of the examiner's positions with respect to that claim or other claims.
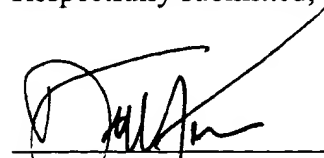
While no fees are believed due with this filing, please apply any charge deficiencies or credits to deposit account 06-1050, reference 10559-096001.

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Respectfully submitted,

Date:_____ 5/6/5

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